



In Re Application Of: Brian G. Agee, et. al. |  
Serial No. 09/878,789 || 09/879,459 |  
Filed: 06/10/01 06/11/01 |  
For: Method and Apparatus for |  
Optimization of Wireless Multipoint...|

Examiner:  
Group Art Unit: 2661 || 2681  
Atty. Docket No:  
Date: Oct. 8, 2002

#3

Refusional date: 09/01/0000  
09/01/0000 190111 00000013 500705 09879459  
03 FC:202 120.00 CR  
03 FC:203 1467.00 CR

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OCT 10 2002

OFFICE OF PETITIONS

THE COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

**PETITION TO REVIVE & TREAT AS AMENDMENT**

The invention at issue was filed on June 10, 2001. Immediately, the need for a number of corrections was realized as the Attorney realized (the next morning) that a draft version of the specification had been sent. The full version was filed on June 11, 2001, with indication that it was a correction for the previous day's filing. Attorney presumed that the Patent Office would treat this as a Preliminary Amendment under 608.04(b).

Two Notices to File Corrected Application Papers were received. The first indicated that it was for the application papers filed on June 10, 2001, which had been assigned both the application number 09/878,789 and Group Art Unit 2661. The second indicated that it was for the application papers filed on June 11, 2001, which had been assigned both a different application number, 09/879,459 and a different Group Art Unit, 2681.

Attorney was confused as to what remedy to seek at this time; a single application had been turned into two competing ones. The Notices were set out on the desktop to research the proper response.

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Unfortunately, that June, 2001, Attorney experienced a major computer failure. Recovering from that required upgrading of his operating system, re-installation of most of his application software, recovery of most of his files, and upgrading and searching for new replacements for outmoded and no longer available applications. The change in

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operating system resulted in the loss of both his automated calendaring system and the data contained therein. It also temporarily reshuffled the entirety of his desk surface.

It was believed that the paper files had managed to limit the disaster. Then, when reviewing other files in response to a client's request, attorney came across the misplaced Notices to File Corrected Application Papers. Attorney has only just discovered and confirmed the error and unintentional non-response.

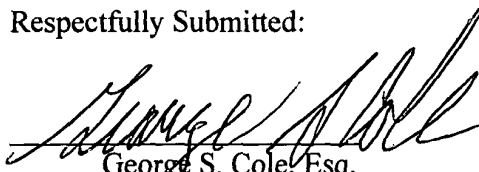
At no time had there been any intent to abandon the application, which is correctly shown in the papers given the Serial Number 09/878,789; the entire delay was entirely unintentional. The attorney has completed the Corrected Application Papers and is filing the same with the petition to revive.

It is requested that the two files be merged, with the second filing (09/879,459) being treated as a Preliminary Amendment, and the single, now-corrected application be assigned to a single Art Unit.

Payment for the Petition to Revive is included, as is specific authorization to charge attorney's deposit account. Permission is requested and authorization is also granted to charge as may be appropriate for requisite extension of time.

If the Patent Office has already received a corrected application it is humbly asked to return a copy thereof to the Attorney for his permanent files.

Respectfully Submitted:



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PTO #40,563